

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SEAN COLLINS,

Plaintiff,

vs.

SCOTT FRAKES, Director Nebraska
Department of Correctional Services -
Individual and Official Capacity;
ROBERT MADSEN, Deputy Director
of Nebraska Department of Correctional
Services, - Individual and Official
Capacity; and J. CONROY, Unit 4
Manager (Nebraska State Penitentiary) -
Individual and Official Capacity;

Defendants.

8:18CV270

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's motion for an extension of time ([filing no. 23](#)) and a "motion for leave" ([filing no. 24](#)) which the court liberally construes as a motion for clarification.

On February 6, 2019, the court determined that Plaintiff's Complaint ([filing no. 1](#)) and supplement ([filing no. 17](#)) failed to state a claim upon which relief could be granted and gave Plaintiff 30 days to file an amended complaint that sufficiently describes his Eighth Amendment claims against Defendants Frakes, Madsen, and Conroy. ([Filing No. 22.](#)) Plaintiff now seeks an additional 90 days in which to file an amended complaint. Upon consideration, the court will grant Plaintiff's motion for a 90-day extension of time. Given the length of the extension, **no further extensions will be granted.**

Plaintiff also seeks clarification as to “which complaint [he is] supposed to give more information . . . [e]ither the (Original Complaint) or the (Amended Supplement Complaint).” ([Filing No. 24 at CM/ECF p. 2](#).) To be clear, the court considered Plaintiff’s “Amended Supplement Complaint” ([filing no. 17](#)) as supplemental to his original Complaint ([filing no. 1](#)) and liberally construed both documents together in determining that Plaintiff had failed to state a claim for relief. If Plaintiff chooses to file an amended complaint, he should include any allegations from his original Complaint and his “Amended Supplement Complaint” that he wishes the court to consider along with any additional allegations relevant to his Eighth Amendment claims because his amended complaint will **supersede**, not supplement his earlier pleadings. To that end, the court will direct the clerk’s office to send Plaintiff a form civil complaint which he may use if he so chooses.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s motion for an extension of time ([filing no. 23](#)) is granted. Plaintiff shall have until **June 6, 2019**, to file an amended complaint. **No further extensions shall be granted.**
2. Plaintiff’s “motion for leave” ([filing no. 24](#)), construed as a motion for clarification, is granted in accordance with this Memorandum and Order.
3. The clerk’s office is directed to send to Plaintiff a blank form complaint for violation of civil rights (prisoner) (Form Pro Se 14).
4. The clerk’s office is directed to set a pro se case management deadline using the following text: **June 6, 2019**: check for amended complaint.

Dated this 28th day of February, 2019.

BY THE COURT:

s/ *Richard G. Kopf*
Senior United States District Judge